

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DONNY DESHON CURRY,

Defendant.

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**Case No. CR-16-120-R
CIV-19-199-R**

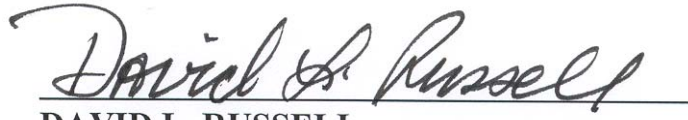
ORDER

Before the Court is the Motion to Reconsider filed by Defendant Donny Deshon Curry (Doc. No. 100). The United States responded in opposition to the motion (Doc. No. 102). Upon consideration of the parties' submission, the Court DENIES the motion.

"Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Defendant argues the Court's consideration of his third claim, related to the prior criminal convictions used to support sentence enhancement under the Armed Career Criminal Act, was erroneous, and that the Court should reconsider to prevent manifest injustice. For the reasons set forth in the response filed by the United States in its response brief, the Court declines to reconsider. The Court considered the validity of three of the four underlying convictions and concluded it need not consider the fourth, because

even if it did not support application of the enhancement, Defendant had three prior qualifying convictions. Accordingly, the instant motion is DENIED.¹

IT IS SO ORDERED this 13th day of April 2020.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

¹ Because Defendant is arguing the Court erred by not considering the entirety of his third claim for relief, the appeal from denial of this motion does not require a certificate of appealability because this motion is not construed as a second or successive § 2255. *See Peach v. United States*, 468 F.3d 1269, 1272 (10th Cir. 2006) (per curiam) (holding a Rule 60(b) motion claiming the district court failed to consider a claim raised in the § 2255 motion was not a second or successive § 2255 motion).